

BLOOMINGTON HUMAN RIGHTS COMMISSION
DIRECTOR'S QUARTERLY REPORT
October - December 2004

- I. Discrimination complaints
 - A. Pending from prior quarters - Commissioner Harlig's case
 - 1. Race discrimination in public accommodations case filed in May, 2004
 - 2. Investigation nearly complete
 - B. New Cases
 - 1. Commissioner Bangert's case
 - a. Disability discrimination in employment case filed in October, 2004
 - b. Investigation pending; settlement possible
 - 2. Commissioner Huggins' case
 - a. Sexual harassment discrimination in employment case filed in October, 2004
 - b. Investigation pending
 - C. Intakes completed and complaints filed with Equal Employment Opportunity Commission (when BHRC had no jurisdiction)
 - 1. Three complaints filed with the EEOC
 - 2. Eight people referred directly to EEOC due to time constraints
 - D. Intakes and complaints filed with the Indiana Civil Rights Commission - there were no complaints filed with the ICRC

- E. Intakes/discussions that have not yet led to formal complaint being filed
 - 1. Woman said she had been harassed at work. Made appointment for only time she was available, evening, but she did not show. She didn't respond to follow-up call.
 - 2. Man said he had been discriminated against on the basis of his disability by a fast food restaurant. Made appointment but did not show. He didn't respond to follow-up call.
 - 3. Man said he had been discriminated against on the basis of his disability, obesity. Made appointment but he didn't show.

II. Miscellaneous inquiries

- A. Email writer asked if smokers are a "protected class" under the law; yes, to an extent; Indiana has a law prohibiting employers from discriminating against employees on the basis of smoking. However, employers are not required to allow employees to smoke at the business site.
- B. Caller asked for names of local architects with familiarity with ADA; provided.
- C. Caller wanted to know how many employees an employer must have to be covered by discrimination laws; 15 to be covered by federal law and 6 to be covered by Bloomington Human Rights Ordinance.
- D. Caller asked it would be acceptable to remove accessible parking spaces from city parking lot during upcoming event; no, unless there is equivalent accessible parking in the immediate vicinity.
- E. Email writer asked if she could require an employee who has been off on disability leave to provide medical documentation saying she is fit to return to work; yes, allowed under the ADA. Medical information should be shared only with

employees who need to know, and should be kept separate from personnel records in a secure location, but it is legal to require such documentation.

- F. Email writer asked, for the third or fourth time, about where to find an accessible apartment where she could live with both her mother and brother, who have disabilities but don't yet live in Bloomington. Answered as always with some suggestions. We filed a complaint with HUD for this woman in 2001; she repeatedly emails us to find out what happened with her case; repeatedly, we refer her back to HUD. A housing consultant for the State of Indiana called to find out about this case; he couldn't understand why it had been referred to him unless the woman had complained profusely to the governor's office. We told him that was quite possible and gave him the information we had about the case.
- G. Caller, a landlord, said that one of his employees had a dispute with a man and called the man homophobic names. The man called the landlord to complain (he knew whom to call because of the name on the truck the employee was driving). The man wanted the employee reprimanded, and the landlord did so. Then the man wanted the employee's name, home address and home telephone number. The landlord asked if he had to provide that information; no. Asked how he should handle the case; suggested he document everything thoroughly. The man told the landlord that he would be filing a complaint with the BHRC but has not contacted the BHRC. The situation might be a hate incident, but not a case of discrimination in employment, public accommodations, housing or education.
- H. Caller, from HUD, asked for names of landlords who could provide fair housing training to outlying areas. Suggested she call the Monroe County Apartment Association.
- I. Email writer, who has autistic spectrum disorder, suggested that the human rights ordinance be amended to include to protect people with this

condition from discrimination. Told him that ordinance already prohibits discrimination on the basis of disability, and if his condition meets the definition of disability, he would be protected from discrimination. Wanted suggestions on educating public about his specific condition; suggested talking to HT feature writer.

- J. Email writer wanted to complain about sexist behavior of city employees; referred to city's citizen services coordinator.
- K. Email writer wanted copy of agreement from 1983 case; found.
- L. Caller wanted information about ballot questions and state judge on the November ballot; referred to www.citizenstoolkit.com
- M. Caller, a board member of a nonprofit agency, wanted information about how to deal with dispute between employees and director; provided general advice.
- N. Email writer said that a friend of his was arrested (charges were eventually dropped) and was asked by the processing officer, "Do you have affections for people of the same gender?" The friend hesitated before answering, and the officer then rudely asked, "Do you like guys?" The email writer wanted to know if this was legal. Reply was that there was no law against this, and such a question could be pertinent in some circumstances; offered to talk to head of police department if appropriate; email writer said he would get back to us.
- O. Caller asked for information about how Bloomington complies with fair housing requirements; answered questions.
- P. Caller asked if landlord would have to allow large service animal if only a large animal will meet the needs of his disability; probably yes, depending upon the size of the apartment and the dog. He asked if landlords are required to allow tenants to have therapeutic animals; yes, if a

health care provider says the tenant has a disability which will be assisted by the animal. He asked if landlords may charge extra security deposits for large animals; no. The landlord may charge for actual damages caused by the animal, if any, but may not charge an increased security deposit for the larger service animal. He asked for a letter explaining this; provided.

- Q. Email writer said that restaurant's new accessible parking space was not striped in blue paint as required by law. State law requires these stripes be blue, but also says that if the spaces comply with federal law, then they are acceptable; federal law does not specify a color.
- R. Email writer said that restaurant did not have required grab bars in its men's restroom. But it does have required grab bars in its women's restroom; women's restroom is designated as women's/accessible restroom. This is acceptable under the ADA (only one person uses this restroom at a time).
- S. Caller asked how Bloomington enforced compliance with accessible buildings; through county building department and through Bloomington Human Rights Ordinance.
- T. Email writer, from northern Indiana, said that he was being discriminated against because he is a pagan. He said his ex-wife won custody of their children because of his religious beliefs; that when he tried to open a business selling pagan materials the police told him he had to close; that his ex-wife blackmails him for money by threatening to show a videotape of him and her to their children and the police do nothing about it, etc. Referred to Indiana Civil Liberties Union and/or Indiana Civil Rights Commission.
- U. Email writer, an IU student, asked about a dozen questions about BHRC for paper she is writing; answered questions.
- V. Email writer asked about the ADA requirements for width and slope; provided information.

- W. Email writer said that landlord at "affordable" apartment complex was raising rents, making them ineligible for Section 8 assistance. Wanted to know if this is a violation of the Bloomington Human Rights Ordinance; no; wanted copies of documents filed with the city when the city approved tax abatements; referred to city clerk and to city council attorney. (Landlord later changed policy, allowing current Section 8 tenants to remain.)
- X. Caller applied for a job and was told that the employer would hire only IU students. Wanted to file a complaint of discrimination, but discriminating against non-students is not illegal. (Employer received funding from IU and thus IU required that employer hire students.)
- Y. Caller, a lawyer, asked if Bloomington Human Rights Ordinance still included sexual orientation as a protected category; yes.
- Z. Caller wanted to file complaint against former employer. He said that a female coworker touched him inappropriately, in front of customers, about a year ago. He filed an internal complaint; the restaurant investigated and told the woman not to do it again. He quit and won unemployment compensation. Told him it was too late to file a complaint with the BHRC. He said that sexual harassment is rampant at this restaurant; told him that others with complaints would need to contact us to file their own complaints.
- AA. Email writer, from NonProfit Alliance, asked what training we could do for nonprofit agencies; answered questions.
- BB. Caller said he is planning to renovate restroom in a building; the building is used by the public but only employees may use the restroom. He said that it would be very unlikely for any employee at this facility to have a disability because of the nature of the work, and asked if the restroom had to meet ADA specifications. Could find no exemption for such a situation.

- CC. Email writer wrote on behalf of young man who was told by his employer that they weren't pleased with him because he was not a team player; he didn't participate in company social events and gatherings with his family. The employer didn't know that the man was gay; he told them that he hadn't participated because his partner is a man. The employer fired him. Company not in the city limits. No state law prohibits discrimination on the basis of sexual orientation. Gave general advice.
- DD. Caller asked if McKinney could speak to classes about how to deal with discrimination and hate incidents; could not work out schedule, but gave caller referral information.
- EE. Email writer, a city employee preparing a report for HUD, asked for a list of all of our fair housing questions from 10/1/03 until 9/30/04; provided.
- FF. Caller had questions about ADA and placement of ATM machine; answered.
- GG. Email writer said she worked for a child care facility. One of the children has parents who have never been married, but the dad's name is on the child's birth certificate. His paternity has never been legally established or doubted. The mother told the facility not to release the child to the apparent father. She said she had full legal custody and he had no rights to the child. The email writer asked if the facility had to go by the mother's wishes. Referred to Office of Family and Children.
- HH. Email writer said that her son was hospitalized and overly medicated at the facility where he is being held; she also said that the child was being molested. Asked for advice; suggested she call a private lawyer, ICLU, and/or try to get a court-appointed special advocate appointed for her child.

- II. Email writer, from Columbus, Indiana, had questions about his union job and harassment. Gave general advice.
 - JJ. Attorney asked to be added to subscription list for Rights Stuff; request granted.
 - KK. Email writer from Clinton County wanted to know more about our Limited English Proficiency workshop; answered questions.
 - LL. Attorney from Chicago wanted copy of our sexual orientation amendment; provided.
 - MM. Email writer asked for information about African Americans on city boards and commissions; did survey and compiled list.
- III. Publicity
- A. Public service announcements sent to radio stations
 - B. Mailed 150 copies of monthly newsletter, Rights Stuff, to businesses, agencies and individuals, and distributed 100 copies at bookstores, coffee houses and library
 - C. Updated BHRC listing on Bloomington Latino website
 - D. Participated in Chamber's press conference on new ADA handbook
 - E. McKinney appeared on WGCL to talk about ADA handbook
 - F. Council for Community Accessibility presented Chamber's Diversity Team with Community Service Award and McKinney with Mayor's Award
 - G. Wisconsin's Institute for Diversity Education and Leadership posted new ADA handbook on its website

IV. Networking/education

- A. McKinney did four mock interviews with SPEA students
- B. McKinney met with journalism student to talk about immigrant community
- C. McKinney met with law student to talk about BHRC
- D. McKinney attended Bloomington United meetings
- E. McKinney attended Women's History Month Lunch planning meetings
- F. McKinney attended Limited English Proficiency meetings
- G. McKinney talked to 15 Asian students about BHRC
- H. McKinney talked to ADA-Indiana about ADA handbook; ADA-Indiana provided funding to print handbook
- I. BHRC co-sponsored AIDS Day events
- J. McKinney participated in Human Rights Day march and rally

V. Affirmative action/common wages

- A. McKinney reviewed twenty-five affirmative action plans
- B. Toddy closed three common wage files
- C. Toddy conducted three on-site visits
- D. McKinney and Toddy met with city council representatives to talk about wage compliance review

VI. ADA Issues

- A. Store did not have proper markings on accessible parking; agreed to correct

- B. Restaurant does not have wide enough doors for restrooms; county agreed to require restaurant to correct
- C. Doctor's office had several accessibility problems; did not respond to letter so filed complaint with ICRC/DOJ
- D. City installed traffic signal pole in middle of sidewalk; agreed to install sidewalk around pole
- E. Caller complained that voting place, located on city property, did not have proper accessible parking; problem corrected.